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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,140	10/21/2003	William Miller		3640

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EXAMINER	
ANDERSON, JOHN A	

ART UNIT	PAPER NUMBER
3609	

MAIL DATE	DELIVERY MODE
08/02/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/690,140	MILLER, WILLIAM	
	Examiner	Art Unit	
	John A. Anderson	3609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10/690,140 10/21/2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Specification

Application cooperation is requested in correcting any errors of which the applicant may become aware in the specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6 rejected under 35 U.S.C. 103(a) as being unpatentable over **Wolberg US Pub No. 2001/0044765 A1.**

Regarding claim 1, Wolberg discloses in the present invention a method for financing at least a portion of post-secondary education undertaken at a future date by at least some members of a predetermined group [0022]. **Wolberg does not disclose** a death benefit held in a trust.

Wolberg further discloses that additional benefits may be purchased from the program provider. Additional plan payments may be paid to cover, for example, protection against the untimely death of the paying party and/or protection against the paying party being unable to continue plan payments (e.g. because of disability or loss of employment [0042].

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Wolberg to incorporate the death benefit as part of the trust fund.

The motivation would be to provide a means such that in the event the paying party was incapacitated or deceased, funding for post secondary education would still be available.

Regarding claim 2, Wolberg discloses the first plan members to reach college age and begin attending college; the program provider will begin making disbursements as contracted [0024]. **Wolberg does not disclose** specifically that the beneficiary receives 12.5% of the proceeds in each of the four successive years while in college, and the remaining 50% at the age of 30.

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Wolberg to specify in a contract, distribution of trust proceeds at 12.5% at the age of 18,19, 20 and 21 and the remainder at the age of 30.

The motivation would be to create the added incentive for the student to perform well during their high school years since their tuition costs at the post-secondary institution of their choice will already be partially paid for. In addition, the funds will be disbursed in increments such that there will be equal distribution during the first four years of higher education.

Regarding claim 3, Wolberg discloses the program provider will begin making disbursements as contracted [0024]. **Wolberg does not disclose** specifically

that the beneficiary receives at age 30 a ten-year immediate payment of an annuity with an A.M.Best rating of A or better.

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Wolberg to specify in a contract, the individual requirements of the donor to the trust such that payments can be established to satisfy their wishes.

The motivation would have been to provide post secondary education funding plan in which the availability of funds are less limited and the likelihood of student loan repayment default is greatly reduced or eliminated. [0019]

Regarding claim 4, Wolberg discloses Insurance policy with death benefits [0017], historic costs and cost increases [0022], distributing the trust proceeds to the beneficiary [0040]; estimate the amount necessary to fund future education expenses [0038]. An object of the present invention is to make higher education more affordable by providing a method that guarantees the payment of the costs of tuition and/or other costs associated with post-secondary education at an educational institution of the plan member's choice. [0018]

Wolberg does not disclose the death benefit proceeds being paid into a trust fund.

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Wolberg to incorporate the death benefit as part of the trust fund.

The motivation would have been to provide a means such that in the event the paying party was incapacitated or deceased, funding for post secondary education would still be available.

Regarding claim 5, Wolberg discloses the program provider will begin making disbursements as contracted [0024]. **Wolberg does not disclose** specifically that the beneficiary receives 12.5% of the proceeds in each of the four successive years while in college, and the remaining 50% at the age of 30.

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Wolberg to specify in a contract, distribution of trust proceeds at 12.5% at the age of 18,19, 20 and 21 and the remainder at the age of 30.

The motivation would be to create the added incentive for the student to perform well during their high school years since their tuition costs at the post-secondary institution of their choice will already be partially paid for.

Regarding claim 6, Wolberg discloses the program provider will begin making disbursements as contracted [0024]. **Wolberg does not disclose** specifically that the beneficiary receives at age 30 a ten-year immediate payment of an annuity with an A.M.Best rating of A or better.

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to utilize the teachings of Wolberg to specify in a contract, the individual requirements of the donor to the trust such that payments can be established to satisfy their wishes.

The motivation would have been to provide post secondary education funding plan in which the availability of funds are less limited and the likelihood of student loan repayment default is greatly reduced or eliminated. [0019]

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John A. Anderson whose telephone number is 571-270-3327. The examiner can normally be reached on Monday through Friday 8:00 to 5:00 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, AKM ULLAH can be reached on 571-2722361. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John A Anderson
Examiner
Art Unit 3609

AKM ULLAH
SUPERVISORY PATENT EXAMINER